

GUARDIANSHIP and CONSERVATORSHIP

3

Get a Permanent Appointment for an Adult

**Part 3: Preparing for and Attending
the Court Hearing
(Forms Packet)**

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Self Service Center

FOR APPOINTMENT OF A PERMANENT GUARDIAN AND/OR CONSERVATOR FOR AN ADULT

PART 3 : PREPARING FOR AND ATTENDING THE COURT HEARING (Forms Only)

How to assemble these documents

This packet contains court forms to prepare for the court hearing to be appointed permanent guardian and conservator for an adult. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
1	PBGCA8ft	Table of forms/instructions in this packet	1
2	PBGCA8k	Checklist for preparing for the court hearing	1
3	PBGC81f	<i>"Court Order to Guardians and Conservators"</i>	6
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5	PBGC82f	<i>"Letters and Acceptance Regarding a Permanent Guardian and Conservator"</i>	2

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Self-Service Center

**PREPARATION FOR AND ATTENDING COURT HEARING
APPOINTMENT OF GUARDIAN
AND CONSERVATOR FOR AN ADULT**

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You want to have the court appoint a guardian and conservator for an adult.
- ✓ You have given notice to all interested parties, or will do so.
- ✓ You have a court hearing scheduled.
- ✓ You need the paperwork to go to the court hearing.

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document, or get involved with a court case, it is important that you see a lawyer to make sure you are doing the right thing. The Self-Service Center has a list of lawyers who can give you legal advice and can help you on a task-by-task basis for a fee. If you want to know more about our list of lawyers and our list of mediators, ask the Self-Service Center staff.

Name of Attorney: _____
ATTORNEY AT LAW
Address: _____
City, Zip Code: _____
Telephone Number: _____
State Bar Number: _____

Petitioner's Name: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____

SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

In the Matter of the Guardianship
and Conservatorship of

Case Number: _____

_____ ☐ an Adult or ☐ a Minor

ORDER TO GUARDIAN(S) AND CONSERVATOR(S) AND ACKNOWLEDGMENT

The welfare and best interest of the person named above ("your protected person and your ward") are matters of great concern to this Court. By accepting appointment as guardian and/or conservator you have subjected yourself to the power and supervision of the Court. Therefore, to help avoid problems and to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions as it relates to your duties as guardian of your ward and to your duties as his/her conservator, as follows:

GUARDIAN(S):

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.
2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.
3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered with a reasonable amount of effort.

4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available which meets your ward's needs.
5. You may arrange for medical care to be provided even if your ward does not wish to have it. This includes outpatient mental health care and treatment.
6. You may handle small amounts of money or property belonging to your ward without being appointed conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding \$5,000.00 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition for the appointment of a conservator.
7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
 - a. Care for and protect your ward's personal effects;
 - b. Apply any monies you receive for your ward's current support, care, and educational needs;
 - c. Conserve any excess funds not so spent for your ward's future needs;
 - d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
 - e. Maintain records of all of the ward's property received and expended during the period of the guardianship;
 - f. Account to your ward or your ward's successors at the termination of the guardianship, if requested; and,
 - g. You are not to purchase, lease, borrow, or use your ward's property or money for your benefit or anyone else's without prior court approval.
8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks", gifts, favors, and other kinds of personal benefits.
9. You will need to obtain a certified copy of the letters which are issued to you by the Clerk of the Superior Court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have it available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.
10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and (if there is no conservator) your ward's financial situation. Your report is due each year on the anniversary date of your appointment. In addition to sending copies to the other persons named in the statute, you are directed to lodge a copy of your annual report with the Presiding Judge of the Probate Department of this Court.
11. You must be conscious at all times of the needs and best interest of your ward. If the circumstances which made a guardianship necessary should end, you are responsible for petitioning to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.
12. If you should be unable to continue with your duties for any reason, you and your guardian or conservator must petition the Court to accept your resignation and appoint a successor. If you should

die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.

13. If you have any questions about the meaning of this order or the duties which it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.
14. If you are now, or in the future, become guardian for more than two persons who are not related to you by blood or marriage, you must advise the Court of that fact and provide the Court with such information as it may require. With respect to each such appointment, you must advise the Court in writing of at least the following: (a) the name and address of the court that appointed you, (b) the case number, and (c) the name and address of your ward.

If you have been granted authority to consent to inpatient mental health treatment for the ward, the following additional duties and obligations apply:

1. You are additionally responsible for making decisions concerning your ward's mental health needs, including the decision to place your ward in a mental health treatment facility.
2. The court has granted you the authority to place the ward in a level one mental health treatment facility for inpatient mental health treatment. This means that you have the authority to admit the ward for inpatient mental health treatment. With that authority goes certain legal responsibilities which include:
 - a. You must seek the advice and assistance of qualified mental health professionals in determining your ward's needs for care and treatment, the degree of rehabilitation possible, and the best possible placement for your ward.
 - b. You must choose the care and treatment that is most suitable for your ward, taking into account the ward's needs and preferences, which will allow your ward to achieve the maximum possible degree of rehabilitation or recovery.
 - c. In making placement decisions, you must first seek alternatives to hospitalization. You should give due regard to the first preference of allowing the ward to live at home with family or friends, and to the second preference of placement in a mental health treatment facility close to home in an environment less restrictive than a hospital. Inpatient hospitalization should be your last resort.
 - d. Within forty-eight hours after placement of the ward in an inpatient treatment facility, the guardian must give notice of this action to the ward's attorney.
 - e. The inpatient behavioral health treatment facility is required to assess the appropriateness of the ward's placement in the facility every thirty days and provide a copy of the assessment report to the ward's attorney. You need to assure that this assessment is timely completed and that the assessment report is mailed to the ward's attorney.
 - f. When the ward is admitted to a level one behavioral health treatment facility, you must provide the facility with the name, address and telephone number of the ward's attorney. The facility shall include this information in the ward's treatment record.
 - g. You must place the ward in the least restrictive treatment alternative within ten days after you are notified by the medical director of the inpatient facility that the ward no longer needs inpatient care. If you cannot arrange alternative placement within that period of time after discussion with the medical director, or if you and the medical director disagree about the feasibility or availability of alternative placement, either you or the medical director, or both of you may request the Court

to hold a hearing on the matter. If you request a hearing, the Court will set a hearing on the matter.

3. **YOUR AUTHORITY TO ADMIT THE WARD TO A LEVEL ONE BEHAVIORAL HEALTH FACILITY FOR INPATIENT MENTAL HEALTH CARE IS LIMITED TO ONE YEAR.** Unless the Court orders the continuation of your inpatient mental health treatment authority for another year, your power to admit the ward for inpatient mental health treatment will lapse on the anniversary of your appointment. **If you want the inpatient placement authority to continue, you must request continuance of that authority by filing with your "Annual Report of Guardian" an evaluation report prepared by a psychiatrist or psychologist explaining the ward's current need for inpatient mental health care and treatment.** If no evaluation report is filed or if the evaluation report states that the ward is not currently in need of inpatient mental health treatment, your authority to consent to inpatient mental health care will cease. You must send a copy of your **"Annual Report of Guardian"** and the evaluation report to the ward's attorney. You should file the **"Annual Report of Guardian"** and evaluation report at least 30 days prior to the expiration date of your authority.

The ward through his or her attorney has a right to challenge your request for renewal of your authority to consent to inpatient mental health treatment. Any objection to your request must be filed within ten business days of the filing of your **"Annual Report of Guardian"** and evaluation report. The court must hold a hearing within thirty calendar days after it receives the objection. Your inpatient mental health treatment authority continues pending the court's ruling on the issue. At the hearing, you have the burden of proving by clear and convincing evidence that the ward is currently in need of inpatient mental health care and treatment.

If you are requesting renewal of your authority to consent to inpatient mental health care, in addition to the ward's attorney, you must send a copy of your **"Annual Report of Guardian"** and the evaluation report to the medical director of the mental health treatment facility or agency responsible for the ward's care and treatment. If your ward is in the Arizona State Hospital, you should send a copy of the **"Annual Report of Guardian"** and the evaluation report to: Medical Director, Arizona State Hospital, 2500 E. Van Buren, Phoenix, AZ 85008.

Should your authority to consent to inpatient mental health care cease, you still have the authority to consent to psychiatric and psychological care and treatment, including the administration of psychotropic medications, if the care and treatment takes place outside a level one behavioral health facility licensed by the department of health services.

CONSERVATOR(S):

1. Immediately locate, identify and inventory all of the assets of the protected person and make proper arrangements for their protection, such as changing the locks on the house, renting a safe deposit box for important documents, etc.
2. File your formal Inventory with the Court no more than 90 days after your appointment as conservator. If you are filing it without an attorney, be sure to put the case name and number on all papers you file with the Court.
3. Immediately begin to take title to all of the protected person's property. The property should be titled in the name of the conservatorship: (Your name) as Conservator(s) of the estate of (Protected Person's Name), or (Protected Person's name by your name), Conservator. Do not put the protected person's funds into joint accounts, trust accounts ("in trust for"), or payable on death (POD) accounts. Do not list yourself as beneficiary on any bank accounts or other assets belonging to the protected person.

4. Keep detailed records of all receipts and expenditures you make on behalf of the protected person, including bills, receipts, bank statements, tax returns, bills of sale, promissory notes, etc. Open a separate conservatorship checking account for deposit of your protected person's income and other receipts, and payment of his/her bills and expenses. Avoid dealing in cash.
5. Establish a budget, pay the protected person's debts when they become due, and properly invest the protected person's assets. You may hire accountants, attorneys and other advisors to help you carry out your duties as the size and the extent of the conservatorship estate may dictate.
6. Keep detailed records of the time you are spending in identifying, managing and protecting the conservatorship estate in case you later decide to ask the Court to be paid for your time from the conservatorship estate.
7. Record certified copies of your "Letters of Conservatorship" with the County Recorder in each county where the protected person owns property in order to protect title to those properties.
8. If the Court has ordered you to place funds in a restricted account, you must immediately file a receipt from the bank or financial institution showing that you have deposited the money in an account which the bank has restricted in accordance with the Court order. The receipt should include the name and address of the financial institution, the type of account, the account number and the amount deposited.
9. File an annual accounting with the Court no later than one year from the date you were appointed (and each year on the anniversary date of your appointment) showing everything the protected person owned when you were appointed; all sums and property received since your appointment itemized by date, source, purpose and amount; and all expenditures made since your appointment, itemized by date, payee, purpose and amount; and the balance on hand at the end of the accounting period.
10. **NEVER** use any of the protected person's money or property for any reason other than the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of undivided loyalty to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.
11. You must not make speculative investments. Do not purchase merchandise or services which the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety, health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.
12. All conservatorships terminate on the death of the protected person, the depletion of his/her conservatorship estate or upon the minor protected person's reaching 18 years of age. Court proceedings and a final accounting are **required** before you can be discharged as conservator and your bond exonerated (canceled).
13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships **before** taking any action.

THIS IS ONLY AN OUTLINE OF **SOME** OF YOUR DUTIES AS GUARDIAN(S) AND CONSERVATOR(S). IT IS **YOUR** RESPONSIBILITY TO OBTAIN PROPER LEGAL ADVICE ABOUT YOUR DUTIES. FAILURE TO DO SO MAY RESULT IN PERSONAL FINANCIAL LIABILITY FOR ANY LOSSES.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS AND CONSERVATORS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, FINE, OR BOTH.

DATED: _____

Judge/Commissioner

ACKNOWLEDGMENT: THE UNDERSIGNED ACKNOWLEDGES RECEIVING A COPY OF THIS ORDER AND AGREEING TO BE BOUND BY ITS PROVISIONS, WHETHER OR NOT HE OR SHE READ IT BEFORE SIGNING, AS LONG AS HE OR SHE IS GUARDIAN(S) AND CONSERVATOR(S).

Signature of Guardian and Conservator

Date Signed

Signature of Guardian and Conservator

Date Signed

Your Name: _____
Your Address: _____
Your City, State, Zip Code: _____
Your Telephone Number: _____
Attorney Bar Number (if applicable): _____
Representing ☐ Self or ☐ Attorney for _____

**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

In the Matter of the
Guardianship and Conservatorship of

Case Number PB: _____

**ORDER OF APPOINTMENT OF A
PERMANENT GUARDIAN AND
CONSERVATOR OF AN ADULT**

(Incapacitated Person and Protected Person)

The Court has read the sworn "**Petition for Appointment of Guardianship and Conservatorship**" and held a hearing to determine whether the court should enter the Order requested in the Petition.

THE COURT FINDS:

- A. Petitioner is entitled to file the Petition under Arizona law, A.R.S. 14-5303(A) and 14-5404(A);
- B. Petitioner has given "**Notice of Hearing**" as required by law or "**Notice of Hearing**" was waived by all interested parties;
- C. Venue in this county is proper;
- D. The reports of the physician and the court investigator have been considered by the Court.
- E. **GUARDIANSHIP:** The above-captioned person is an incapacitated person and in need of the continuing care and supervision of a Guardian and the person appointed below is competent to serve as Guardian of the incapacitated person and has priority for appointment under A.R.S. § 14-5311.
- F. **CONSERVATORSHIP:** Appointment of a Conservator is necessary because the proposed ward is unable to manage his or her property and affairs effectively due to mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance and the person appointed below is entitled to appointment as Conservator under A.R.S. § 14-5410.

IT IS ORDERED:

- 1. **APPOINTMENT OF GUARDIAN AND CONSERVATOR:** The Court appoints:
NAME: _____ as Guardian and Conservator for the
Adult as described in the caption above.
- 2. **BOND:** ☐ The Guardian and Conservator must file a bond in the amount of \$ _____
with the Clerk of the Court, Probate Registrar before issuance of the letters.
☐ Bond is not required and is waived.
- 3. **ISSUANCE OF LETTERS:** Upon filing the bond, Letters of Guardianship and Conservatorship of an Adult shall be issued by the Clerk of the Court, Probate Registrar, SUBJECT TO THE FOLLOWING RESTRICTIONS:

☐ The following real property shall not be sold, transferred or encumbered without prior court approval:

☐ The following financial accounts shall be restricted with no withdrawal of principal or interest without prior court order:

☐ The following additional restrictions apply:

4. **ACCEPTANCE OF LETTERS:** The Guardian and Conservator shall sign the ***“Acceptance of the Letters”*** under oath, and file the Acceptance with the Clerk of the Court, Probate Registrar.

5. **ANNUAL REPORT OF GUARDIAN:** The Guardian shall report to the Court on the status of the incapacitated person and the need to continue the guardianship at least annually by this date as required by A.R.S. § 14-5315, by filing the required form with the Clerk of the Court.

6. **MENTAL HEALTH CARE (TITLE 14):**

☐ **OUTPATIENT MENTAL HEALTH CARE.** The Guardian has the authority to consent for the Ward/Incapacitated Person to receive outpatient mental health care and treatment.

☐ **INPATIENT MENTAL HEALTH CARE.** The court finds by clear and convincing evidence that the Ward requires inpatient care. The Guardian has the authority to place the Ward in a level one behavioral health facility for inpatient mental health care and treatment. This authority expires on _____ (date).

7. DRIVING PRIVILEGES.

- ☐ The Ward/Incapacitated Person's right to obtain or retain a driver's license **is** suspended. OR
☐ The Ward/Incapacitated Person's right to obtain or retain a driver's license **is not** suspended.

8. INVENTORY AND APPRAISEMENT:

- ☐ Within 90 calendar days of this date, the Conservator must prepare and file with the Clerk of the Court a detailed inventory of the protected person's assets indicating fair market value, as required by A.R.S. §14-5418.
☐ **"Inventory and Appraisal"** is waived and is not required to be filed with the court.

9. ☐ RESTRICTED ACCOUNT: The account is to be restricted, and no withdrawal of principal or interest shall be permitted by the depository except upon receipt of a certified copy of an order of this Court authorizing the withdrawal.

10. ☐ REINVESTMENT: The depository may, however, permit reinvestment of the funds within the depository without further order of the Court so long as the funds remain restricted in the same institution, at the same branch.

11. ☐ PROOF OF RESTRICTED ACCOUNT: The conservator may only hold funds in a depository which agrees to be bound by this order and to make written proof of its agreement to be bound, including proof of the account, the account number, the deposit amount, the notarized signature of the depository branch manager, and the agreement not to permit any withdrawal unless it is first provided with a certified copy of this Court's order permitting the withdrawal.

12. ☐ ESTABLISHING RESTRICTED ACCOUNT: The ☐ conservator or ☐ attorney for the adult or ☐ attorney for the conservator is responsible for establishing the restricted account and filing the proof required by this order with the Court within 30 days of this order.

13. ANNUAL ACCOUNTING:

- ☐ The conservator's annual accounting to this Court is waived (OR)
☐ The conservator is required to file an annual accounting. The first accounting is due on _____

14. ESTATE MANAGEMENT PLAN:

- ☐ Within 90 calendar days of this date and with each required annual accounting, the Conservator shall prepare and file with the Clerk of the Court an **"Estate Management Plan"** as required by Local Rule 5.7(c). (OR)
☐ The "Estate Management Plan" is waived and is not required to be filed with the court.

15. CHANGE OF ADDRESS: The Guardian and Conservator shall immediately notify in writing the Court of any change in the address of him or herself or of the protected person/incapacitated person.

16. OTHER DUTIES UNDER LAW: The duties of the Guardian and Conservator as required by Arizona law and as set forth in this Order and the Order of Instructions shall continue until the Guardian and Conservator is discharged from these duties by order of this court.

17. DISCHARGE OF ATTORNEY: The court-appointed attorney ☐ is discharged or ☐ is not discharged from further duties in this matter, the Court having found that the best interests of the protected person/incapacitated person require continuing representation by an attorney.

18. IT IS FURTHER ORDERED setting this matter for internal review within (no. of days) _____ to determine compliance.

DONE IN OPEN COURT: _____
JUDGE/COMMISSIONER

Your Name: _____
Your Address: _____
Your City, State, Zip Code: _____
Your Telephone Number: _____
Representing ☐ Self or ☐ Attorney for _____
Attorney Bar Number (if applicable): _____

SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

In the Matter of
the ☐ Guardianship ☐ Conservatorship of

Case Number: PB _____

LETTERS OF APPOINTMENT AS PERMANENT

☐ Adult ☐ Minor

☐ GUARDIAN
☐ CONSERVATOR
☐ GUARDIAN AND CONSERVATOR
AND ACCEPTANCE OF LETTERS

ISSUANCE OF LETTERS:

1. **This person is appointed:** (name) _____ as
☐ guardian, ☐ conservator, or ☐ guardian and conservator for the above captioned ☐ adult or ☐ minor.
2. **Reason for appointment:** The above captioned ☐ adult or ☐ minor is an incapacitated ward and/or protected person.
3. **Length of appointment:** until further order of this court order: _____
4. **Restrictions** that apply to this permanent appointment, by order of the court: _____

5. MENTAL HEALTH CARE:

- ☐ **OUTPATIENT MENTAL HEALTH CARE.** The Guardian has the authority to consent for the Ward/Incapacitated Person to receive outpatient mental health care and treatment.
- ☐ **INPATIENT MENTAL HEALTH CARE.** The Guardian has the authority to place the ward in a level one behavioral health facility for inpatient mental health care and treatment. This authority expires on _____ (date).

6. DRIVING PRIVILEGES.

- ☐ The Ward/Incapacitated Person's right to obtain or retain a driver's license **is** suspended. OR
- ☐ The Ward/Incapacitated Person's right to obtain or retain a driver's license **is not** suspended.

WITNESS: _____

CLERK OF THE SUPERIOR COURT

SEAL

By: _____
Deputy Clerk

ACCEPTANCE OF LETTERS OF APPOINTMENT

State of Arizona)
Maricopa County) ss.

I accept the duties as permanent guardian and/or conservator of (NAME)_____ and
I swear that I will perform these duties according to law.

GUARDIAN AND/OR CONSERVATOR

Subscribed and sworn to before me this date: _____ by _____

My Commission Expires:

Deputy Clerk/Notary Public